

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

RUBY M. LUCAS;  
EMMA FUENTES;  
WILMA G. DIXON;  
BARBARA SMITH;

Plaintiffs,

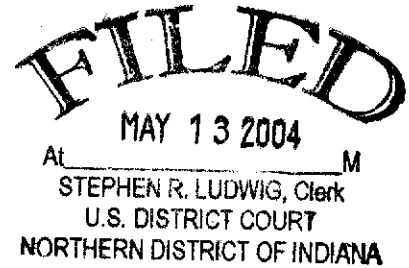
v.

M.R.S. ASSOCIATES, INC.,

Defendant.

2:03 CV 422 JM

JURY DEMANDED



SECOND AMENDED COMPLAINT

INTRODUCTION

1. Plaintiffs bring this action to secure redress against unlawful credit and collection practices engaged in by defendant M.R.S. Associates, Inc. Plaintiffs allege that two form letters used by defendant violate of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§1331, 1337 and 15 U.S.C. §1692k (Fair Debt Collection Practices Act). Venue in this District is proper because M.R.S. Associates, Inc. sent many of its collection letters into the District.

PARTIES

3. Plaintiff Ruby M. Lucas is an individual who resides in Gary, Indiana.
4. Plaintiff Emma Fuentes is an individual who resides in Crown Point, Indiana.
5. Plaintiff Wilma G. Dixon is an individual who resides in Gary, Indiana.

6. Plaintiff Barbara Smith is an individual who resides in Gary, Indiana.

7. Defendant M.R.S. Associates, Inc. is a New Jersey corporation with its principal place of business at 3 Executive Campus, Suite 400, Cherry Hill, NJ 08002.

8. M.R.S. Associates, Inc. operates a collection agency. It is a "debt collector" as defined in the FDCPA.

### **FACTS**

#### **Lucas**

9. On or about July 19, 2003, defendant sent plaintiff Lucas a collection letter, of which the front is attached as Exhibit A, seeking to collect a credit card debt incurred for personal, family or household use. Plaintiff received it shortly thereafter.

10. Exhibit A is the first letter plaintiff Lucas received from defendant in connection with the debt described therein.

11. On information and belief, Exhibit A is the first letter defendant sent to plaintiff Lucas in connection with the debt described therein.

12. On information and belief, Exhibit A is a standard form letter intended for use as an initial demand letter by defendant. At some point in late 2003 or early 2004, the form of Exhibit A was modified to become Exhibit C. The two forms are referred to herein as the "earlier" and "later" forms.

#### **Fuentes**

13. On or about May 6, 2003, defendant sent plaintiff Fuentes a collection letter, of which the front is attached as Exhibit B, seeking to collect a credit card debt incurred for personal, family or household use. Plaintiff received it shortly thereafter. Exhibit B is an example

of the earlier form.

14. Exhibit B is the first letter plaintiff Fuentes received from defendant in connection with the debt described therein.

15. On information and belief, Exhibit B is the first letter defendant sent to plaintiff Fuentes in connection with the debt described therein.

**Dixon**

16. On or about June 21, 2003, defendant sent plaintiff Dixon a collection letter, of which the front is attached as Exhibit C, seeking to collect a credit card debt incurred for personal, family or household use. Plaintiff received it shortly thereafter. Exhibit C is an example of the later form.

17. Exhibit C is the first letter plaintiff Dixon received from defendant in connection with the debt described therein.

18. On information and belief, Exhibit C is the first letter defendant sent to plaintiff Dixon in connection with the debt described therein.

**Smith**

19. On or about Sept. 27, 2003, defendant sent plaintiff Smith a collection letter, of which the front is attached as Exhibit D, seeking to collect a credit card debt incurred for personal, family or household use. Plaintiff received it shortly thereafter. Exhibit D is an example of the earlier form.

20. Exhibit D is the first letter plaintiff Smith received from defendant in connection with the debt described therein.

21. On information and belief, Exhibit D is the first letter defendant sent to

plaintiff Smith in connection with the debt described therein.

### **VIOLATIONS ALLEGED**

22. Both the earlier and later form letters state that "If for some reason you believe this debt is not valid, please review your rights listed at the bottom of this letter."

23. The quoted language is an impermissible condition on the debtor's exercise of verification rights under 15 U.S.C. §1692g. The debtor may dispute and request verification of the debt if he or she simply does not recognize it, or questions the amount of the claimed debt or how it was computed, or believes that the debt is valid but that credit has not been given for all payments made, or if two or more collection agencies have sought payment and the debtor is unsure who the creditor has authorized to act, or any of a number of other reasons which do not require that the debtor believe that the debt is not valid. DeSantis v. Computer Credit, Inc., 269 F.3d 159 (2d Cir. 2001).

24. The later form (Exhibit C) contains the same violations as the earlier form.

25. In addition, the later form is confusing and misleading with respect to the amount the recipient must pay. The letter gives an "account balance" at the top, but states that "interest may accrue on unpaid balances." The debt is a credit card, which normally does accrue interest; however, the letter does not definitely state whether or not it does accrue. The letter then demands that the debtor "honor your contractual obligation," which could be the "account balance," or the "account balance" plus interest. Nothing informs the debtor how to compute or find out the amount to be paid. See Chuway v. National Action Financial Services, 2004 WL 614760, --- F.3d — (7<sup>th</sup> Cir., March 30, 2004).

26. Defendant's letters therefore violate 15 U.S.C. §§1692e and 1692g.

WHEREFORE, plaintiffs request that the Court enter judgment in favor of plaintiffs and against defendant; for:

- a. Statutory damages;
- b. Attorney's fees, litigation expenses and costs of suit;
- c. Such other or further relief as the Court deems proper.



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Daniel A. Edelman

Daniel A. Edelman  
Cathleen M. Combs  
EDELMAN, COMBS & LATTURNER, LLC  
120 S. LaSalle Street, 18th Floor  
Chicago, Illinois 60603  
(312) 739-4200  
(312) 419-0379 (FAX)

**JURY DEMAND**

Plaintiffs demand trial by jury.



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Daniel A. Edelman

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**SEPARATE INDEX OF EXHIBITS**

1. Exhibit A - Collection letter from M.R.S. Associates, Inc., to Ruby M. Lucas dated July 19, 2003.
2. Exhibit B - Collection letter from M.R.S. Associates, Inc., to Emma Fuentes dated May 6, 2003.
3. Exhibit C - Collection Letter from M.R.S. Associates, Inc., to Wilma G. Dixon dated June 21, 2003.
4. Exhibit D - Collection Letter from M.R.S. Associates, Inc., to Barbara Smith dated September 27, 2003.

# **EXHIBIT A**

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002



Office Hours:  
Mon - Thurs 8am - 9pm EST  
Fri - 8am - 5pm EST  
Sat - 8am - 12pm EST  
Sun - 9am - 12pm EST

July 19, 2003

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

03333565-701 06001  
RUBY M LUCAS  
627 S HUNTINGTON ST  
GARY IN 46403-2558

CLT ACCT #: 5291151940127952	MRS ACCT #: 03333565	ACCOUNT BAL.: \$1179.34
RE: CAPITAL ONE		

✗ IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT IN FULL ✗  
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE: CAPITAL ONE  
CLT ACCT#: 5291151940127952  
MRS ACCT#: 03333565  
ACCOUNT BALANCE: \$1179.34

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

Dear RUBY M LUCAS,

The above referenced client has placed your account with our office for collection. This decision was made due to your continued failure to meet your contractual obligation. If for some reason you believe this debt is not valid, please review your rights listed at the bottom of this letter.

If the debt is not in dispute, then you have an important decision to make: honor your contractual obligation and receive significant positive benefits from satisfying the debt or continue not honoring your contractual obligation and face the possibility of negative consequences. The negative consequences are determined by the terms and conditions of your contract, the applicable laws in your state, and our client's willingness to incur additional costs and expenses (which may in turn be passed on to you!).

Clearly our client would prefer to work with you than against you, however, the decision to proceed with further collection activity is determined by you and your willingness to honor your commitment.

It is with this in mind that we would like to offer you a unique opportunity to satisfy your outstanding debt. We are presenting the option that will enable you to avoid further collection activity being taken against you.

OPTION 1: A settlement of 25% OFF of your current balance, SO YOU ONLY PAY \$ 884.50 in ONE PAYMENT that must be received 40 days after the date on this letter.

Which would you prefer the positive benefits or negative consequences? The choice is yours!

**IMPORTANT CONSUMER INFORMATION**

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Sincerely,

*B. Simone*

B. Simone  
Director of Operations 1-877-774-7992  
M.R.S. ASSOCIATES, INC

This is an attempt to collect a debt and any information obtained will be used for that purpose.

This communication is from a debt collection agency.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.



# **EXHIBIT B**



M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002



Office Hours:  
Mon - Thurs 8am - 9pm EST  
Fri - 8am - 5pm EST  
Sat - 8am - 12pm EST  
Sun - 9am - 12pm EST

May 6, 2003

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

03111139-001 04607  
EMMA FUENTES  
9437 CLEVELAND ST  
CROWN POINT IN 46307-1916

CLT ACCT #  
4266513022639440

MRS ACCT #  
03111139

ACCOUNT BAL :  
\$3875.79

RE : BANK ONE FORMERLY FIRST USA

IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT IN FULL  
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE: BANK ONE FORMERLY FIRST USA  
CLT ACCT#: 4266513022639440  
MRS ACCT#: 03111139  
ACCOUNT BALANCE : \$3875.79

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

Dear EMMA FUENTES,

The above referenced client has placed your account with our office for collection. This decision was made due to your continued failure to meet your contractual obligation. If for some reason you believe this debt is not valid, please review your rights listed at the bottom of this letter.

If the debt is not in dispute, then you have an important decision to make: honor your contractual obligation and receive significant positive benefits from satisfying the debt or continue not honoring your contractual obligation and face the possibility of negative consequences. The negative consequences are determined by the terms and conditions of your contract, the applicable laws in your state, and our client's willingness to incur additional costs and expenses (which may in turn be passed on to you!).

Clearly our client would prefer to work with you than against you, however, the decision to proceed with further collection activity is determined by you and your willingness to honor your commitment.

Which would you prefer the positive benefits or negative consequences? The choice is yours!

IMPORTANT CONSUMER INFORMATION

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.  
This communication is from a debt collection agency.

Sincerely,

*Chris Bradley*

Chris Bradley  
Director of Operations 1-877-774-7999  
M.R.S. ASSOCIATES, INC.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

# EXHIBIT C



M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002



Office Hours :  
Mon - Thurs 8am - 9pm EST  
Fri - 8am - 5pm EST  
Sat - 8am - 12pm EST  
Sun - 9am - 12pm EST

June 21, 2003

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

03254781-001 06096  
WILMA G DIXON  
5306 W 21ST AVE 206  
GARY IN 46406-2742

CLT ACCT # :  
4862362249225312

MRS ACCT # :  
03254781

ACCOUNT BAL. :  
\$2252.41

RE : CAPITAL ONE

(Interest may accrue on unpaid balances)

✗ IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT IN FULL ✗  
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE: CAPITAL ONE  
CLT ACCT#: 4862362249225312  
MRS ACCT#: 03254781  
ACCOUNT BALANCE : \$2252.41 (Interest may accrue on unpaid balances)

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

Dear WILMA G DIXON,

The above referenced client has placed your account with our office for collection. This decision was made due to your continued failure to meet your contractual obligation. If for some reason you believe this debt is not valid, please review your rights listed at the bottom of this letter.

If the debt is not in dispute, then you have an important decision to make: honor your contractual obligation and receive significant positive benefits from satisfying the debt or continue not honoring your contractual obligation and face the possibility of negative consequences. The negative consequences are determined by the terms and conditions of your contract, the applicable laws in your state, and our client's willingness to incur additional costs and expenses (which may in turn be passed on to you!).

Clearly our client would prefer to work with you than against you, however, the decision to proceed with further collection activity is determined by you and your willingness to honor your commitment.

Which would you prefer the positive benefits or negative consequences? The choice is yours!

#### IMPORTANT CONSUMER INFORMATION

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This is an attempt to collect a debt and any information obtained will be used for that purpose.  
This communication is from a debt collection agency.

Sincerely,

*B. Simone*

B. Simone  
Director of Operations 1-877-774-7992  
M.R.S. ASSOCIATES, INC

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

# **EXHIBIT D**

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002



Office Hours:  
Mon - Thurs 8am - 9pm EST  
Fri - 8am - 5pm EST  
Sat - 8am - 12pm EST  
Sun - 9am - 12pm EST

September 27, 2003

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

03670803-001 07914  
BARBARA SMITH  
4167 PIERCE ST  
GARY IN 46408-2545

CLT ACCT # :  
5570091927717106

MRS ACCT # :  
03670803

ACCOUNT BAL :  
\$1239.84

RE : CAPITAL ONE (K-MART CARD)

(Interest may accrue on unpaid balances)

~~IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT IN FULL~~  
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE: CAPITAL ONE (K-MART CARD)

CLT ACCT#: 5570091927717106

MRS ACCT#: 03670803

ACCOUNT BALANCE : \$1239.84 (Interest may accrue on unpaid balances)

M.R.S. ASSOCIATES, INC.  
3 EXECUTIVE CAMPUS, SUITE 400  
CHERRY HILL NJ 08002

Dear BARBARA SMITH,

The above referenced client has placed your account with our office for collection. This decision was made due to your continued failure to meet your contractual obligation. If for some reason you believe this debt is not valid, please review your rights listed at the bottom of this letter.

If the debt is not in dispute, then you have an important decision to make: honor your contractual obligation and receive significant positive benefits from satisfying the debt or continue not honoring your contractual obligation and face the possibility of negative consequences. The negative consequences are determined by the terms and conditions of your contract, the applicable laws in your state, and our client's willingness to incur additional costs and expenses (which may in turn be passed on to you!).

Clearly our client would prefer to work with you than against you, however, the decision to proceed with further collection activity is determined by you and your willingness to honor your commitment.

Which would you prefer the positive benefits or negative consequences? The choice is yours!

#### IMPORTANT CONSUMER INFORMATION

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This is an attempt to collect a debt and any information obtained will be used for that purpose.  
This communication is from a debt collection agency.

Sincerely,

*Dawn Hasenjager*

Dawn Hasenjager  
Collection Manager 1-877-508-6306  
M.R.S. ASSOCIATES, INC.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.